

APR 16 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

FUAD GEOGRE FARAH,

Petitioner - Appellant,

v.

CAL TERHUNE, Director,

Respondent - Appellee.

No. 01-17314

D.C. No. CV-99-04084-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Argued and Submitted April 10, 2003
San Francisco, California

Before: NOONAN, McKEOWN, and RAWLINSON, Circuit Judges.

Petitioner Fuad George Farah appeals the district court's denial of his petition for a writ of habeas corpus. Farah claims that his constitutional rights were violated in a state criminal trial for grand theft and misdemeanor vandalism

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

when the judge read an instruction summarizing a civil judgment entered against Farah, and refused to read a claim of right instruction.

The state appellate court affirmed the trial court's determinations on these points, finding that in the case of any error, it was harmless in light of the findings made and evidence considered by the jury. The district court upheld the state appellate court's decision, refusing to issue the writ of habeas corpus since the state court's determination that any error was harmless was not contrary to or an unreasonable interpretation of federal law as determined by the United State Supreme Court. 28 U.S.C. 2254(d)(1). Neither did the decision result in a decision that was based on an unreasonable determination of the facts in light of the evidence presented at the State court proceeding. 28 U.S.C. 2254(d)(2). Consequently, no writ could issue under the Antiterrorism and Effective Death Penalty Act, 28 U.S.C. §2254. On the same ground, the decision of the district court is

AFFIRMED.